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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/747,951	12/31/2003	Yoshiyuki Shoji	H6807.0001/P001-B	6942	
24998	7590 10/03/2006		EXAM	EXAMINER	
DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW			LEWIS, PATRICK T		
	DC 20006-5403		ART UNIT	PAPER NUMBER	
			1623		
			DATE MAILED: 10/03/2006	5	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary		Application No.	Applicant(s)				
		10/747,951	SHOJI ET AL.				
		Examiner	Art Unit				
		Patrick T. Lewis	1623				
Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with	the correspondence addre	ss			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1)	Responsive to communication(s) filed on						
2a)□	This action is <b>FINAL</b> . 2b)⊠ This action is non-final.						
3)	7						
٠,۵	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
		x parto quayro, 1000 O.D. 1	1, 400 0.0. 210.				
Disposit	on of Claims						
4)⊠	Claim(s) 12-31 is/are pending in the application	1.					
	4a) Of the above claim(s) is/are withdrawn from consideration.						
	5) Claim(s) is/are allowed.						
6)[							
7)	Claim(s) is/are objected to.						
8)🖂	8) Claim(s) 12-31 are subject to restriction and/or election requirement.						
Applicat	on Papers						
9)	The specification is objected to by the Examiner	•					
10)⊠ The drawing(s) filed on <u>31 December 2003</u> is/are: a)⊠ accepted or b)□ objected to by the Examiner.							
/	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11)	11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
		arrimer. Note the attached O	mice Action of John 1 10-	102.			
Priority (	ınder 35 U.S.C. § 119						
	12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:						
	1. Certified copies of the priority documents have been received.						
	2. Certified copies of the priority documents have been received in Application No. <u>09/808,157</u> .						
	3. Copies of the certified copies of the priority documents have been received in this National Stage						
	application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.							
Attachmen	t(s)						
1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)							
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date							
3) 🔼 Information	nation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date <u>01272005; 12312003</u> .	5)  Notice of Information  Notice  Notice	mal Patent Application				
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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 12-24, drawn to a nucleic acid purification apparatus, classified in class 422, subclass 101.
  - II. Claims 25-31, drawn to a nucleic acid purification method, classified in class 536, subclass 25.41.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus could be used to separate other biological materials such as peptides, amino acids, or polysaccharides.
- 3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick T. Lewis whose telephone number is 571-272Art Unit: 1623

0655. The examiner can normally be reached on Monday - Friday 10 am to 3 pm (Maxi

Flex).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-27291000.

Dr. Patrick T. Lewis Primary Examiner Art Unit 1623

ptl